

Message Text

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ACTION ARA-10

INFO OCT-01 ISO-00 EB-07 DOTE-00 AGR-05 L-03 AID-05 COME-00

TRSE-00 HEW-02 OES-03 SP-02 SS-15 NSC-05 CIAE-00

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P R 092254Z JAN 76

FM AMEMBASSY BOGOTA

TO SECSTATE WASHDC PRIORITY 2719

INFO AMEMBASSY PANAMA

LIMITED OFFICIAL USE BOGOTA 0245

EO 11652: NA

TAGS: ETRN CO

SUBJ: DARIEN GAP HIGHWAY INJUNCTION

REF: STATE 003206

1. ECONCOUNSELOR AND FHWA REPS (SENGER, ALVARADO AND SCHNEIDER) MET WITH MINISTRY OF PUBLIC WORKS OFFICIALS (BATEMENT AND MAYA) ON JAN 8 AND LEFT DETAILED MEMORANDUM, DRAWING ON REFTEL, AND COPY OF COURT DECISION. POINTS CONTAINED REFTEL REINFORCED IN ORAL PRESENTATION. COPIES OF MEMO AND COURT DECISION BEING SENT TO MINISTERS OF FOREIGN AFFAIRS, PUBLIC WORKS AND AGRICULTURE UNDER COVER OF LETTER FROM AMBASSADOR.

2. IMMEDIATE REACTION OF MOP OFFICIALS WAS THAT COURT'S DECISION WAS HIGHLY DISCRIMINATORY AGAINST COLOMBIA. BATEMENT POINTED OUT THAT CONTRACTS FOR PROJECTS 2A AND 4A HAD BEEN SIGNED WELL BEFORE INJUNCTION AND THAT THE TYPE OF DESIGN AND SURVEY WORK CALLED FOR BY THE CONTRACTS WOULD HAVE A MINIMAL (IF ANY) IMPACT ON THE ENVIRONMENT. HE REPEATED STATEMENTS MADE EARLIER TO THE EFFECT THAT THE INJUNCTION RAISES SERIOUS DOUBTS ABOUT THE ABILITY OF THE UNITED STATES TO FULFILL ITS OBLIGATIONS UNDER CURRENT OR FUTURE BILATERAL AGREEMENTS.

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3. AS REGARDS CONTINUATION OF PROJECTS, BATEMAN AND MAYA

STATED THAT 4A SHOULD PRESENT NO PROBLEMS SINCE IT INVOLVES ONLY PESOS, HOWEVER 2A DEFINITELY COULD NOT BE CONTINUED SINCE IT WOULD BE IMPOSSIBLE TO COMPLY WITH THE FORM OF PAYMENT STIPULATED IN CLAUSE FOUR, PARAGRAPH THREE OF THE CONTRACT. THE GOC COULD NOT MAKE DOLLAR PAYMENTS TO THE AMERICAN COMPANY WITHOUT SUBJECTING THE PAYMENTS TO TAXES AND OTHER FEES WHICH COULD TOTAL 52 PERCENT. THE MOP REPS SAID THEY WOULD LOOK INTO THE POSSIBILITY OF SUSPENDING THE CONTRACT FOR PROJECT 2A (THE CONTRACTORS WILL HAVE TO AGREE TO THIS); HOWEVER, SUSPENSION WILL UNDOUBTEDLY LEAD TO CONSIDERABLE COST INCREASES.

4. BATEMAN AND MAYA EXPRESSED FULL UNDERSTANDING OF THE "TWO PERIL" NATURE OF THE PROCEDURE LEADING TO THE INITIATION OF ADVERTISING FOR CONSTRUCTION BIDS AND PROMISED TO FOLLOW THE AFTOSA PROGRAM CAREFULLY, EVEN TO THE EXTENT OF PARTICIPATING IN THE MARCH ICA-USDA MEETING OF EXPERTS.

5. MOP REPS EXPRESSED CONCERN AT THE TIME INVOLVED FOR PREPARATION OF THE ENVIRONMENTAL IMPACT STATEMENT AND ASKED IT PRESENTATION OF THE EIS WOULD CONCLUSIVELY RESOLVE THE PROBLEM HERE. ACTION REQUESTED: PLEASE FORWARD INFORMATION ON THE EIS CLEARANCE PROCESS, ON WHO GRANTS FINAL CLEARANCE AND WHEN, AND ON WHETHER OR NOT ADDITIONAL OBSTACLES OF A SIMILAR NATURE ARE ANTICIPATED. END ACTION REQUESTED.

6. COMMENT. COLOMBIANS WERE OBVIOUSLY DISAPPOINTED AT COURT'S DECISION.

VAKY

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